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| 09/538,455 | 03/30/2000 | Yang Xu | 1787-06001 | 8304 |

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EXAMINER

CHAMBERS, A MICHAEL

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3753

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 16

Application Number: 09/538,455

Filing Date: October 9, 2001

Appellant(s): Xu et al

MAILED
DEC 17 2002
GROUP 3700

Robert Gray

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 23, 2002.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims do stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

No copy of the appealed claims is contained in a Appendix to the brief..

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

| | | |
|-----------|--------------|---------|
| 6,102,068 | HIGDON et al | 8- 2000 |
| 4,846,218 | UPCHURCH | 7-1989 |

(10) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claims 1-12, 20, 21 and 23-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Higdon et al.

Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higdon et al in view of Upchurch.

(11) Response to Argument

The previous *rejection under 35 U.S.C. 112, second paragraph*, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants (appellants) regard as his the invention has been overcome by the addition of "a flow restriction" in claim 1.

Claims 1-12, 20, 21, and 23--~~30~~ are *rejected under 35 U.S.C. 102(e)* as being anticipated by Higdon et al. Note the disclosure of a "...stream switching system..." **for a chromatograph** including a plurality of solenoid valves 98, a sheet heater (column 4, lines 57+), and an insulated hosing (Figure 3B, for example) .Contrary to appellants' remarks, the patent to Higdon et al clearly shows a common stream channel (single inlet/multiple outlet 72) valved by a particular solenoid 98 ." **At least part of the tubing**

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being pre-heated...” by the “sheet heater” (column 4, lines 57+)(claims 1+). The solenoid actuated valves 98 clearly “valve” the “...input and output ports....between an open and closed position.” (Claim 9).. The reduced ‘tubing size’ shown in Figure 3A (claim 18) acts as a restrictor. With regard to claims 19 and 20, note the plurality of input and output port (Figure 3A). **No patentable weight was been given to the recitation added to claim 1 by the amendment filed August 14, 2001, in the “restrictions” shown in Figure 1 of Higdon et al would be sufficient to restrict the sample flow to “...about 50-70 cc/min at 15 psig”.** With regard to claim 9 remarks, claim 9 includes recitation that an “outside impulse (is required) to place said actuatable ports in the open position”. This recitation appears to be contrary to “...this forces the pistons into an upward position, resulting in closed ports” remarks in the amendment and the recitation of claim 9 is clearly readable on the solenoid valve 98 operation. Contrary to appellants’ remarks, the Examiner’s statement regarding claim 9 remarks is correct. Higdon et al clearly discloses actuation of the respective solenoid valves 98 to open the valves and valve the respective ports. The valve 98 clearly controls a plurality any one of which may be considered to a “bleed port”.(claim 23).

Claims 13-17 are *rejected under 35 U.S.C. 103(a)* as being unpatentable over Higdon et al in view of Upchurch. Higdon et al disclose the claimed invention except for the recitation of a “filter” as taught by Upchurch (Figure 1). The plurality of check valves (ball valves) act as “pressure regulators. It would have been obvious to one having


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ordinary skill in the art at the time the invention was made to modify the chromatograph system of Higdon et al to include a "cartridge filter", as taught by Upchurch in order to provide more "pure" fluid to be tested and/or processed. . Further in particular note the disclosure of a filter for the "fluid streams" (column 6, lines 58+) of Higdon et al.

Appellants' remarks, drawn to filter disposition, were considered, however, not deemed persuasive. In column 6, lines 58+ both outlet port filters and filters disposed in inlets are disclosed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

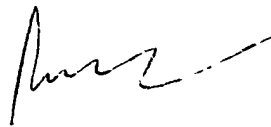

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ART UNIT 3753

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amc
December 14, 2002




Supervisory Patent Examiner
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